

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MICHAEL CLARK,

Plaintiff,

v.

LEE GRIGGS,

Defendant.

Case No. 2:10-CV-00589-KJD-PAL

ORDER

Currently before the Court is Defendant's Motion for Enlargement of Time (#12). Plaintiff filed a Response in Opposition (#13). No reply was filed. Additionally before the Court is Plaintiff's Motion for Default (#17). Plaintiff filed a Response in Opposition (#14), to which Plaintiff filed a Reply (#18). The Court has reviewed the Motions, and issues its ruling on each together herein.

Defendant's Motion seeks that the Court grant a forty-five day extension of time pursuant to Fed. R. Civ. P. 6(b)(1)(A), in which to file an answer or responsive pleading due to a change in lead counsel. Upon review, and good cause appearing, the Court hereby grants Defendant's Motion for Extension of Time (#12).

Plaintiff's Response in Opposition to Defendant's Motion for Extension of Time, avers that the extension should be denied for lack of good cause, and additionally seeks that the Court enter

1 default against Defendants. Upon review, the Court finds that Plaintiff's Motion for Default is
2 unsupported and premature pursuant to Fed. R. Civ. P. 55. In federal court, default judgments are
3 generally disfavored. See Eitel v. McCool, 782 F.2d 1470, 1472 (9th Cir. 1986); see also Lau Ah
4 Yew v. Dulles, 236 F.2d 415, 416 (9th Cir. 1956) (upholding denial of motion for entry of default
5 judgment where answer was untimely). A default judgment may only issue if Defendants do not
6 answer or respond to the Plaintiff's complaint. Entry of default is only proper "[w]hen a party
7 against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend . . ."
8 Fed. R. Civ. P. 55(a).

9 Here, the Defendant has made an appearance, and is clearly planning to defend himself
10 against Plaintiff's claims. Additionally, Defendant has appropriately and adequately sought an
11 extension of time in which to file an answer.

12 Accordingly, **IT IS HEREBY ORDERED** that Defendant's Motion for Enlargement of
13 Time (#12) is **GRANTED**, nunc pro tunc.

14 **IT IS FURTHER ORDERED** that Plaintiff's Motion for Default (#17) is **DENIED**.

15 DATED this 31st day of January, 2011.

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18 Kent J. Dawson
19 United States District Judge
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